

D.B. CIVIL SPECIAL APPEAL(W)NO.942/2006

Mangi Lal
Vs.
State & Ors.

Date of Order :: 05-01-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE GOVIND MATHUR

Shri B.S. Sandhu, for the appellant.
Shri R.K. Singhal, for the respondent.
Shri B.L. Tiwari, for the State.

This special appeal is directed against the order of the learned Single Judge dated 19.12.2006 in SBCWP no.6097/2006. The writ petition had arisen from the order of the collector dated 3.10.2006 in Appeal no.201/2005 directing the District Supply Officer(DSO), Hanumangarh to make enquiry and pass a fresh order.

Short facts of the case are that on complaint of respondent no.4 Shanker Lal, the DSO proposed forfeiture of sum of Rs.700/- out of the security money which was approved by the collector after discussion with the DSO vide his order dated 13.12.2005. In the light of the approval order of the collector, the DSO passed a detailed order on the same day i.e. 13.12.2005 forfeiting sum of Rs.700/-. Against the said order Shanker Lal preferred appeal before the collector in which the impugned order was passed.

Case of the appellant is that Shanker Lal had no locus standi to prefer the appeal and therefore the order of the collector was without jurisdiction. It was submitted that the collector had already approved the decision of the DSO regarding forfeiture of part of the security money, he could not have passed a different order. Alternatively it was submitted that if Shanker Lal had any grievance against the order of the collector dated 13.12.2005 he could approach the Divisional Commissioner but in no case he could file appeal against the order of the DSO before the District collector. We find substance in the contention of the appellant.

It is true that the process was set in motion by Shanker Lal and his complaint resulted in decision to forfeit sum of Rs.700/- but that does not mean that he had any right of appeal. We find substance in the plea of the appellant that Shanker Lal lacked in locus standi to file appeal and the order of the collector is fit to be set aside on this ground alone.

The learned Single Judge while declining to interfere in the matter directed the DSO to decide the matter within a period of three months. The said direction was issued in the light of the

collector's order. The collector's order having been found to be without jurisdiction, it would follow that nothing remains to be done pursuant to the said directions.

It was however stated that in the wake of dismissal of the writ petition by the learned Single Judge, the licence of the appellant's shop was suspended yesterday. We are not sure whether the suspension was pursuant to remand order of the collector with which the learned Single Judge did not interfere. Be that as it may, having already held the order of the collector to be without jurisdiction, we would clarify that no penal action could be taken pursuant to the remand order. However, if the appellant commits or has committed any fresh irregularity, it is open to the DSO or other concerned authorities to take action either on complaint or suo motu as the case may be, in accordance with law.

with the above observations and directions, order of the collector as well as that of the learned Single Judge are set aside and the appeal is accordingly disposed of.

[GOVIND MATHUR], J.

[S.N.JHA], CJ.

Praveen